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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,357	07/03/2001	Dennis P. Joyce	7000-075	1061
27820	7590	11/04/2003	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			LY, NGHI H	
		ART UNIT		PAPER NUMBER
		2686		17

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/898,357	JOYCE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Nghi H. Ly	2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder et al (US 5,649,300) in view of Honda et al (US 6,477,353).

Regarding claim 1, Snyder teaches a method for delivering content (see abstract) to a mobile terminal comprising: determining a location of the mobile terminal (see column 3 lines 26-40), defining a locality whose boundaries are determined without reference to a

geographical location of control station and without reference to a communication range associated with the control station (see column 3, lines 50-62 and fig.1, the mobile units 20 can move freely inside predetermined area 10 and when the mobile units 20 are near any points of interest 16, they receive business advertisements from any points of interest 16, in Snyder, the term "near" means the area around the point of interest 16 and it reads on Applicant's "locality". In addition, the "points of interest 16" can be located anywhere inside predetermined area 10 or whose boundaries are determined without reference to a geographical location of control station 18 and without reference to a communication range associated with the control station 18), determining if the locality encompasses the location of the mobile terminal (see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16"), accessing content form the content provider based on the locality and delivering the content to the mobile terminal (also see abstract or see column 3, lines 50-62, "the messages that system 12 delivers may be business advertisements that are presented when mobile units 20 are near the business").

Snyder does not specifically disclose a servicing base station.

Honda teaches a servicing base station (see column 5, lines 25-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Honda into the system of Snyder so that radiotelephone users can receive advertisements from the base station.

Regarding claims 2 and 13, Snyder further teaches the locality encompassing the mobile terminal is determined by: sending a request to a locality service to associate the location of the mobile terminal with a locality encompassing the location of the mobile

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terminal (also see abstract or see column 3, lines 50-62), receiving a response from the locality service identifying the locality encompassing the location of the mobile terminal (see abstract), and the locality service includes a plurality of locations defining geographic areas (also see abstract or see column 3 lines 50-62).

Regarding claims 3 and 14, Snyder further teaches the content is accessed by: sending a request to a content provider including the locality and receiving the content from the content provider (see column 5, lines 16-19).

Regarding claims 4 and 15, the combination of Snyder and Honda further teaches the step of accessing content is further based on a type of content desired by a user of the mobile terminal (see Honda, Abstract and column 9, lines 61-63).

Regarding claims 5 and 16, the combination of Snyder and Honda further teaches the step of accessing content is further based on characteristics of a user of the mobile terminal (also see Honda, column 9, lines 61-63).

Regarding claims 6 and 17, Snyder further teaches the locality defines a recognized geographic area (see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 7 and 18, Snyder further teaches the locality defines a geographic area about a point of presence for a content provider (also see abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 8 and 19, Snyder further teaches the content accessed based on locality relates to a point of presence within the locality (also see abstract or see column 3 lines 50-62, "when the mobile unit 20 is near a point of interest 16").

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Regarding claims 9 and 20, the combination of Snyder and Honda further teaches accessing a profile associated with a user of the mobile terminal (also see Honda, column 9, lines 61-63) and the step of accessing the content is further based on criteria within the profile such that the criteria further identifies the type of content to access (also see Honda, column 9, lines 61-63).

Regarding claims 10 and 21, Snyder further teaches accessing a profile associated with a point of presence with the locality (also see abstract or see column 3 lines 50-62, "when the mobile unit 20 is near a point of interest 16") and the step of accessing the content is further based on criteria within the profile such that the criteria further identifies the type of content to access (see column 5, lines 16-19).

Regarding claims 11 and 22, the combination of Snyder and Honda teaches defining a zone of acceptance around the mobile terminal (see Honda, column 1, lines 40-46, or see fig.5 position detector 25. Therefore, the subscriber's location based on GPS and the subscriber's location inherently includes a zone of acceptance around the mobile terminal) and determining if the locality encompasses the location of the mobile terminal comprising determining if the zone of acceptance overlaps any portion of the locality (see Snyder, Abstract or see column 3, lines 50-62, "when the mobile unit 20 is near a point of interest 16").

Regarding claims 12 and 23, Snyder further teaches a system for delivering content to a mobile terminal (see column 3 lines 50-62, "the messages that system 12 delivers may be business advertisements that are presented when mobile units 20 are near the business") comprising an interface and a control system adapted to: determine

a location of the mobile terminal (see column 3, lines 32-39), defining a locality whose boundaries are determined without reference to a geographical location of control station and without reference to a communication range associated with the control station (see column 3 lines 50-62 and fig.1, the mobile units 20 can move freely inside predetermined area 10 and when the mobile units 20 are near any points of interest 16, they receive business advertisements from any points of interest 16, in Snyder, the term "near" means the area around the point of interest 16 and it reads on Applicant's "locality". In addition, the "points of interest 16" can be located anywhere inside predetermined area 10 whose boundaries are determined without reference to a geographical location of control station 18 and without reference to a communication range associated with the control station 18), associate content providers with the locality (see column 3, lines 50-62), determine a locality encompassing the location of the mobile (also see abstract and column 3, lines 50-62), access content based on the locality (also see abstract and column 3, lines 50-62), and send the content to the mobile terminal (see abstract or see column 3, lines 50-62, "the messages that system 12 delivers may be business advertisements that are presented when mobile units 20 are near the business").

Snyder does not specifically disclose a servicing base station.

Honda teaches a servicing base station (see column 5, lines 25-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Honda into the system Snyder so that radiotelephone users can receive advertisements from the base station.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Nghi H. Ly

(NL)  
10/29/03

*Marsha D. Banks-Harold*

MARSHA D. BANKS-HAROLD  
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